

# **TOWN OF DAVIE**

## **TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Mark A. Kutney, AICP, Development Services Director/ (954) 797-1101  
Prepared by: Christopher M. Gratz, Planner II

**SUBJECT:** Ordinance 1st Reading/Quasi-judicial, ZB 3-4-03 Jose R. Merlo/Davie Road, LLC, 7901 Davie Road Extension/Generally located 500' east of the northeast corner of University Drive and Davie Road Extension

**AFFECTED DISTRICT:** District 2

**TITLE OF AGENDA ITEM:** AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 3-4-03, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM B-2, COMMUNITY BUSINESS DISTRICT TO RM-10, MEDIUM DENSITY DWELLING DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

**REPORT IN BRIEF:** The petitioner has requested to rezone the 6.99 acres subject site from: B-2, Community Business District to: RM-10, Medium Density Dwelling District; assigning 70 affordable housing units; in accordance with the flexibility rules of the Administrative Rules Document of the Broward County Land Use Plan.

This request will allow the subject site to be developed with 70 affordable townhouses. The parcel exceeds the Land Development Code's minimum requirements needed to gain the zoning designation. Minimum lot size required is 3,500 square feet, and the subject site is 304,636 square feet, or 6.99 acres. Minimum frontage required is 100 feet, and the subject site has over 500' of frontage on Davie Road extension.

**PREVIOUS ACTIONS:** None

**CONCURRENCES:** At the June 25, 2003, Planning and Zoning Board meeting, Mr. McLaughlin made a motion, seconded by Ms. Turin, to deny (Motion carried 4-1 with Mrs. Lee opposed).

**FISCAL IMPACT:** None

**RECOMMENDATION(S):** Staff finds the subject application complete and suitable for transmittal to Town Council for further consideration.

**Attachment(s):** Ordinance, Planning Report, Justification, Letter of Objection, Land Use Map, Zoning and Aerial Map

ORDINANCE \_\_\_\_\_

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 3-4-03, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM B-2, COMMUNITY BUSINESS DISTRICT TO RM-10, MEDIUM DENSITY DWELLING DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie authorized the publication of a notice of a public hearing as required by law, that the classification of certain lands within the Town be changed from B-2, Community Business District to RM-10, Medium Density Dwelling District;

WHEREAS, said notice was given and publication made as required by law, and a public hearing there under was held on the date of the adoption of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE FLORIDA:

SECTION 1. That the property herein after described be and the same is hereby rezoned and changed from B-2, Community Business District to RM-10, Medium Density Dwelling District:

a. The subject property is described in Exhibit "A", which is attached hereto and made a part hereof;

b. That the Town of Davie Town Council assigns 70 affordable housing units; in accordance with the flexibility rules of the Administrative Rules Document of the Broward County Land Use Plan;

SECTION 2. That the zoning map heretofore adopted by the Town Council be and the same is hereby amended to show the property described in Section 1, herein, as RM-10, Medium Density Dwelling District.

SECTION 3. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 5. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2003.

PASSED ON SECOND READING THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2003.

ATTEST:

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2003.

**TOWN OF DAVIE**  
**Development Services Department**  
**Planning and Zoning Division Staff**  
**Report and Recommendation**

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**Applicant Information**

<b><u>Owner:</u></b>		<b><u>Agent:</u></b>	
<b>Name:</b>	Davie Road, LLC.	<b>Name:</b>	Jose R. Merlo
<b>Address:</b>	6714 Pines Boulevard	<b>Address:</b>	9220 E. Calusa Club Drive
<b>City:</b>	Pembroke Pines, FL 33024	<b>City:</b>	Miami, FL 33186
<b>Phone:</b>	(954) 961-5222	<b>Phone:</b>	(786) 251-9488

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**Background Information**

**Date of Notification:** June 18, 2003      **Number of Notifications:** 121 (1,000' radius)

**Application History:** No deferrals have been requested.

**Application Request:** Rezone the 6.99 acre subject site **FROM:** B-2, Community Business District; **TO:** RM-10, Medium Density Dwelling District; assigning 70 affordable housing units; in accordance with the flexibility rules of the Administrative Rules Document of the Broward County Land Use Plan.

**Address/Location:** 7901 Davie Road Extension/Generally located 500' east of the northeast corner of University Drive and Davie Road Extension.

**Future Land Use Plan Designation:** Commercial

**Zoning:** B-2, Community Business District

**Existing Use:** Vacant

**Proposed Use:** 70 affordable townhouses

**Parcel Size:** 6.99 acres (304,636 square feet)

**Proposed Density:** 10 DU/AC



	<b><u>Surrounding Uses:</u></b>	<b><u>Surrounding Land Use Plan Designation:</u></b>
<b>North:</b>	Pop's Landscape Nursery Multi-family dwellings Single family dwelling	Residential (5 DU/AC) Residential (16 DU/AC) Residential (5 DU/AC)
<b>South:</b>	Davie Road Extension	Commercial
<b>East:</b>	Retail plaza	Commercial
<b>West:</b>	Pop's Landscape Nursery Vacant outparcel Walgreen's and retail	Commercial

**Surrounding Zoning:**

<b>North:</b>	B-2, Community Business District R-5, Low Medium Density Dwelling District RM-16, Medium High Density Dwelling District
<b>South:</b>	City of Hollywood
<b>East:</b>	B-2, Community Business District
<b>West:</b>	B-2, Community Business District

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## **Zoning History**

**Related Zoning History:**

Pursuant to a referendum vote, the subject site was annexed to the Town of Davie by Ordinance 81-7, on March 5, 1981

**Previous Requests on same property:**

Available records indicate the Future Land Use Plan Map designation and zoning classification were in place prior to the site's annexation.

The plat, P 3-7-89 Prima Professional Campus, was approved on July 19, 1989, with a note restricting it to 72,500 square feet of office and 5,000 square feet of commercial use in Parcel A, and 41,400 square feet commercial use in Parcel B, and was subsequently recorded in Plat Book 147, Page 31, of the official records of Broward County.

The site plans, SP 3-3-89 and SP 3-4-89 University Professional Campus Shopping Center, were approved on August 15, 1990.

The site plan modifications, SP 6-11-90 and SP 5-5-91 University Professional Campus Shopping Center, were approved on June 19, 1991.

The site plan, SP 2-6-03 Village Parc Townhomes, has been submitted concurrently with this rezoning request.

The delegation request, DG 3-3-03 Prima Professional Campus, to change the plat note to: "This plat is restricted to 9,900 square feet of commercial use and 70 townhomes on Parcel A and 41,410 square feet of commercial use in Parcel B", has been submitted concurrently with this rezoning request.

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### **Application Details**

The petitioner has requested to rezone the 6.99 acres subject site from: B-2, Community Business District to: RM-10, Medium Density Dwelling District; assigning 70 affordable housing units; in accordance with the flexibility rules of the Administrative Rules Document of the Broward County Land Use Plan.

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### **Applicable Codes and Ordinances**

Section 12-307 of the Land Development Code, review for rezonings.

Section 12-81 of the Land Development Code, Conventional Multi-family Development Standards, RM-10, Medium Density Dwelling District, requires the following minimums: lot area of 3,500 square feet, frontage of 100 feet, front and rear setback of 25 feet, side setbacks of 20 feet, maximum building height of 35 feet.

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### **Comprehensive Plan Considerations**

**Planning Area:** The subject property falls within Planning Area 11. This Planning Area is bound by Stirling Road on the north, Davie Road Extension on the southeast, and University Drive on the west. The area is characterized by multi-family residential development on the south side of Stirling Road, ranging from 8 to 16 dwellings per acre. There is one single family residential subdivision developed at five dwellings per acre.

**Broward County Land Use Plan:** The subject site falls within Flexibility Zone 102.

Article 2.5 Administrative Rules Document: Increase and Decrease of Commercial and Residential Acreage:

(1) The land designated "Commercial" within a flexibility zone on the Broward County Land Use Plan may be decreased by twenty percent (20%) and (re)designated to a land use category consistent with the residential land use categories of the Broward County Land Use Plan. (Re)designation to a residential land use category is subject to the following rules and regulations:

a. The local government must assign available flexibility or reserve units in compliance with the provides of Section 2.1 (Flexibility Units) or Section 2.2

(Reserve Units), of this Administrative Rules Document; or

b. The local government must correspondingly reduce, within the local land use element, the density of a residential area so that the total number of permitted dwelling units allowed in the flexibility zone is not increased.

Policy 13.01.10: Local government utilization of the Broward County Land Use Plan “Flexibility Rules,” as per policies 1.01.03, 1.01.04, 1.02.01, 1.02.02, 2.04.04, 2.04.05, 3.01.06 and 3.02.02, shall be subject to a determination by the Broward County Commission that such allocation is compatible with adjacent land uses, and that impacts on public school facilities have been adequately considered. Allocations of “flexibility” for “affordable housing” or “special residential facilities” or “urban infill, urban redevelopment and downtown revitalization areas,” as defined with the Broward County Land Use Plan shall be exempt from this Policy.

**Applicable Goals, Objectives & Policies:**

*Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-7:* Adopted land development regulations shall continue to set forth setbacks or separation regulations, landscaping requirements, and minimum open space criteria to enhance living and working environments.

*Housing Element, Goals, Objectives, and Policies, Goal:* Provide opportunities for affordable and adequate housing to meet the needs of the existing and future populations of the Town.

*Housing Element, Goals, Objectives, and Policies, Objective 2:* Facilitate and promote a wide variety of residential development to address the different needs of the projected population.

**Comments from Housing and Community Development Director, Shirley Taylor-Prakelt:**

This property is located at the pivotal entry to the Driftwood Community Redevelopment Block Grant (CDBG) Target Area on the corner of University Drive and Davie Road Extension. The site is also located just a few blocks southwest of the Town’s “Harmony Village Community Initiative” where 22 new single family homes are being developed by Habitat for Humanity, and a new Boys and Girls Club facility is being constructed on the southeast corner of Driftwood Park.

The development of this site as affordable housing is desirable, and is consistent with the Town’s Housing and Community Development Initiatives and the Town’s Consolidated Plan for Federal Funds 2002-07. The Consolidated Plan clearly delineates the need for moderately priced, for-sale housing units. The developer has agreed to work with the Town’s Office of Housing and Community Development regarding an entry sign/landscape feature for the Target Area, on their property at the corner of University Drive and Davie Road Extension.

The developer is to be commended for their unique, sensitive, approach to addressing the affordable housing needs of Davie’s low/moderate-income residents, and for improving the

### Staff Analysis

This request will allow the subject site to be developed with 70 affordable townhouses. The parcel exceeds the Land Development Code's minimum requirements needed to gain the zoning designation. Minimum lot size required is 3,500 square feet, and the subject site is 304,636 square feet, or 6.99 acres. Minimum frontage required is 100 feet, and the subject site has over 500' of frontage on Davie Road extension.

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### Findings of Fact

#### **Rezoning:**

#### **Section 12-307(A) (1):**

#### **The following findings of facts apply to the rezoning request:**

(a) The proposed change is not contrary to the adopted comprehensive plan, as amended, or any element or portion thereof;

*The comprehensive plan allows lands designated for commercial use to be used for residential use through the assignment of affordable housing units in accordance the Administrative Rules Document of the Broward County Land Use Plan.*

(b) The proposed change will not create an isolated zoning district unrelated and incompatible with adjacent and nearby districts;

*The requested RM-10, Medium Density Dwelling District is related and compatible with the adjacent zoning designations. The parcels to the north are designated for single and multi-family use ranging in densities from 5 DU/AC to 16 DU/AC, to the south and west are transportation corridors and B-2 zoned properties, and to the east is a retail plaza. The preliminary site plan shows that the surrounding uses are adequately separated and buffered.*

(c) Existing zoning district boundaries are logically drawn in relation to existing conditions on the property proposed for change;

*The existing B-2, Community Business District boundaries are logically drawn.*

(d) The proposed change will not adversely affect living conditions in the neighborhood;

*Development of 70 townhouses will not have adverse impacts on the surrounding area as to the north is an area designated for single and multi-family use ranging in densities from 5 DU/AC to 16 DU/AC, and the preliminary site plan shows adequate separation and buffering between the commercial properties to the south, west, and east .*

(e) The proposed change will not create or excessively increase automobile and vehicular

traffic congestion above that which would be anticipated with permitted intensities or densities of the underlying land use plan designation, or otherwise affect public safety;

*According to the applicant's delegation request to change the restrictive note on the plat, the traffic generated by 70 townhouses is the same as the traffic that would be generated by the platted office space. Prior to approval of the delegation request to amend the restrictive note on the plat by Broward County, traffic impacts are assessed and concurrency must be met.*

(f) The proposed change may not adversely affect other property values;

*Surrounding property values may not be adversely impacted by development of this vacant site, as this site has been vacant land platted for office use for (14) fourteen years, and new development can assist in the redevelopment in this area that has been identified by the Office of Housing and Community Development to be a CDBG Target Area.*

(g) The proposed change will not be a deterrent to the improvement or development of other property in accord with existing regulations;

*Development of the site will not deter development or improvement of adjacent parcels. It should serve as both an impetus and an example for redevelopment in this CDBG Target Area.*

(h) The proposed change does not constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public;

*This request is a privilege that can be afforded to any owner that has a parcel that meets the Land Development Code's minimum requirements to achieve the zoning classification.*

(i) There are not substantial reasons why the property cannot be used in accord with existing zoning.

*The subject site can be developed according to the existing zoning district standards.*

(j) The proposed zoning designation may not be the most appropriate designation to enhance the Town's tax base given the site location relative to the pattern of land use designations established on the Future Land Use Plan Map, appropriate land use planning practice, and comprehensive plan policies directing land use location.

*The proposed zoning designation reduces the amount of commercial land in the Town; staff cannot predict the potential taxable value of the platted office space versus the taxable value of 70 townhouses.*

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### **Staff Recommendation**

Staff finds the subject application complete and suitable for transmittal to the Planning and Zoning Board and Town Council for further consideration.

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## **Planning and Zoning Board Recommendation**

At the June 25, 2003, Planning and Zoning Board meeting, Mr. McLaughlin made a motion, seconded by Ms. Turin, to deny (Motion carried 4-1 with Mrs. Lee opposed).

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### **Exhibits**

1. Justification
2. Letter of Objection
3. Preliminary Site Plan
4. Land Use Map
5. Zoning and Aerial Map

Prepared by: \_\_\_\_\_

Reviewed by: \_\_\_\_\_



March 18, 20003

Town Of Davie  
6591 Orange Drive  
Davie, Florida 33314-3399

**RE: Criteria for Reviewing Rezoning Requests**

**Project:** Davie Parc Villas  
Parcel 'A' and 'B', Prima Professional Campus, Plat Book 147, Page 31 of the  
Public Records of Broward, Florida.

We are requesting that portion of the present zoning to this property to be rezoned from BU to RM-10. The following is our opinion regarding the rezoning of the referenced project:

1. The proposed change is not contrary to the adopted comprehensive plan.
2. The proposed change would not create an isolated zoning district. The adjacent zoning to the north is zoned RM-16.
3. The existing zoning district boundaries may be illogically drawn in relation to existing conditions on the property proposed for change.
4. The proposed change will improve the living conditions in the neighborhood. This project is an Affordable Housing Project which is much needed in the community.
5. The proposed change will decrease the automobile and vehicular traffic congestion in the community. Residential projects generate less vehicular traffic than commercial projects.
6. The proposed change will increase the property values.
7. The proposed change will not be a deterrent to the improvement or development of other property in accordance with existing regulations, it will in fact complement them.
8. The proposed change will not constitute a grant of special privilege to an individual owner. It is for the welfare of the general public.
9. The proposed Affordable Housing project has been well received by the Director of Housing and Community Development Shirley Taylor-Prakelt, along with the Town Planner Christopher M. Gratz.

**Merlo & Associates, Inc.**  
**9220 East Calusa Club Drive, Miami, Florida 33186**



*Barry Alan Wilen*

EMERALD HILLS PLAZA ONE  
4601 SHERIDAN STREET, SUITE 208  
HOLLYWOOD, FLORIDA 33021

ATTORNEY-AT-LAW

HOLLYWOOD (954) 966-0011  
NO. BROWARD (954) 522-4601  
DADE (305) 625-1100  
FAX (954) 966-3740

June 17, 2003

**VIA COURIER**

Town of Davie  
Planning & Zoning Board  
6591 Orange Drive  
Davie, Florida 33314

**Re: File # ZB3-4-03;  
My client- Dial Realty Corp.**

To the Honorable Members of the  
Planning & Zoning Board of the Town of Davie:

Please be advised that I represent Dial Realty Corp., the property owner of the three story commercial office building located at 7777 Davie Road Extension, Davie.

My client is in receipt of the Petition for Rezoning the property located 7730-7740 NW 30<sup>th</sup> Street from B-2, Neighborhood Business District to RM-10, Medium Density Dwelling District.

My client wishes to be placed on record as being in opposition to the Petition for Rezoning because it is an accepted fact that multi units would create more congestion and traffic and require more city services than B-2 zoning would. At the time of purchase, my client relied on the existing zoning and is of the opinion that this proposed change would be detrimental to his interest.

Since my client purchased the property in 1996, it has taken steps to improve the building, increase its value and the value of the surrounding properties and operates at a near 100% occupancy. The proposed rezoning would certainly not increase the value of my client's property, but if anything, decrease the value.

Thank you for your attention and consideration to this matter.

Very truly yours,

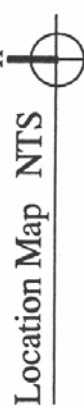


**BARRY ALAN WILEN**

cc: Dial Realty Corp.

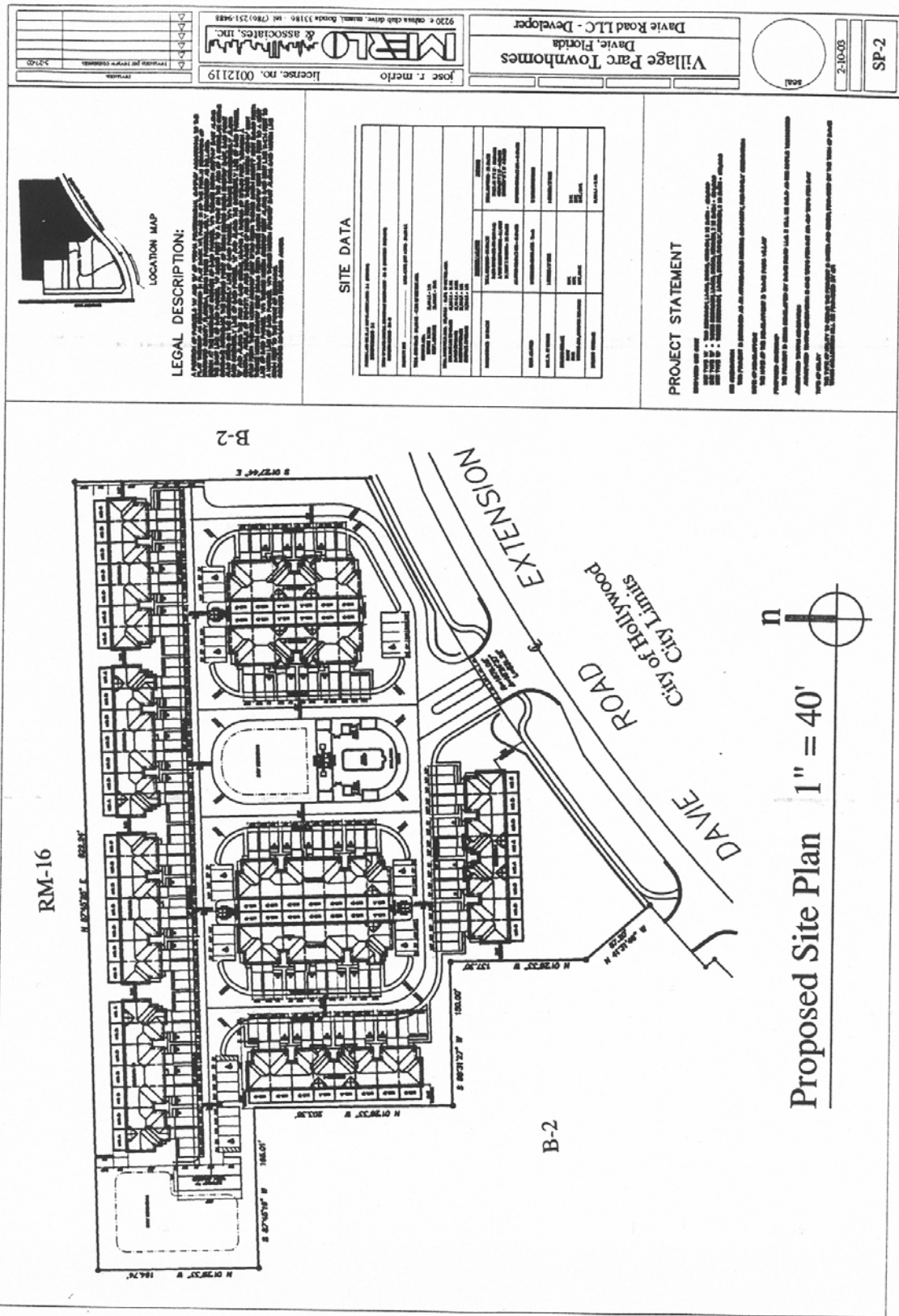
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Unit 'B' - \$169,900  
Unit 'C' - \$179,900

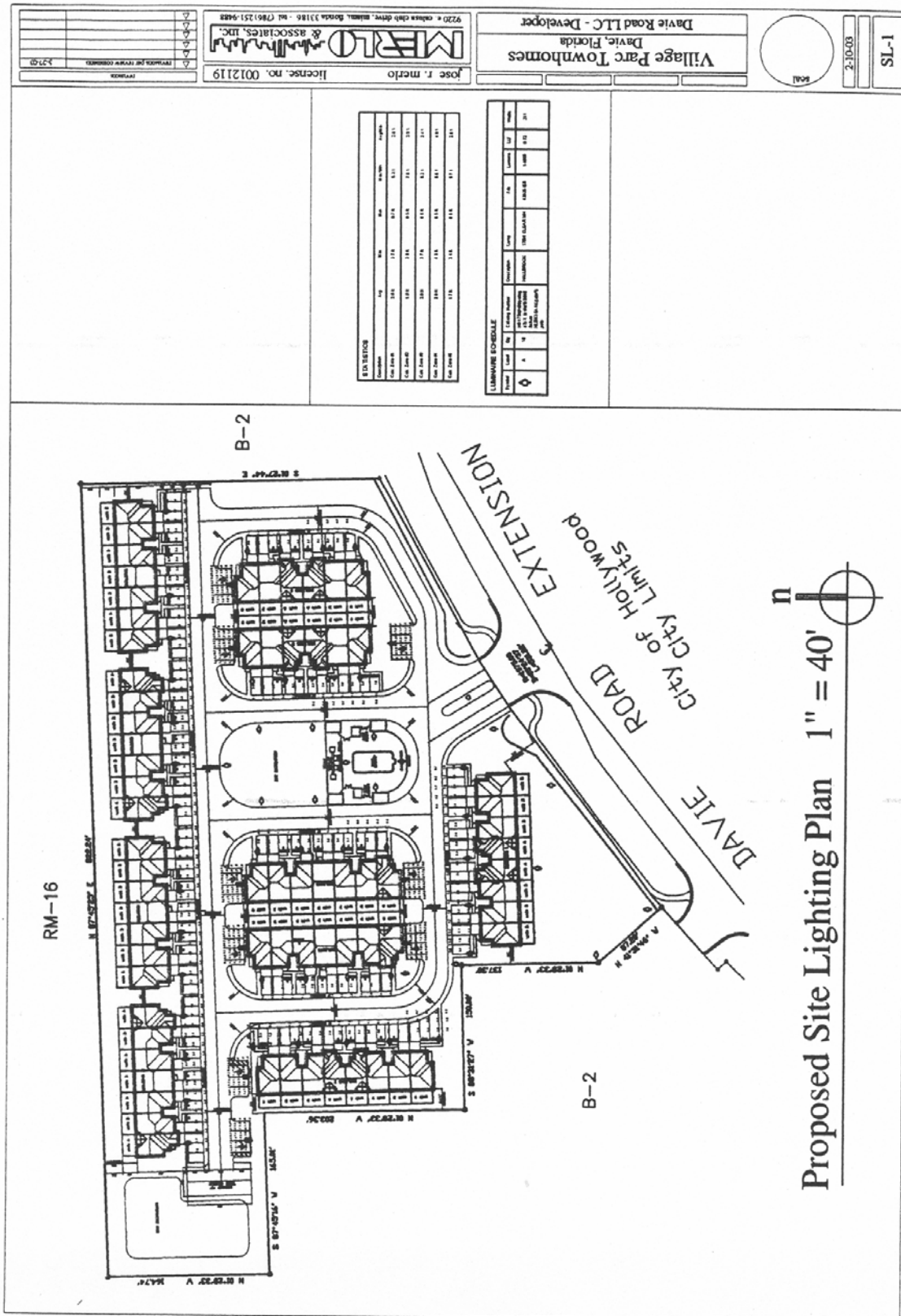
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Unit 'B' - \$169,900  
Unit 'C' - \$179,900

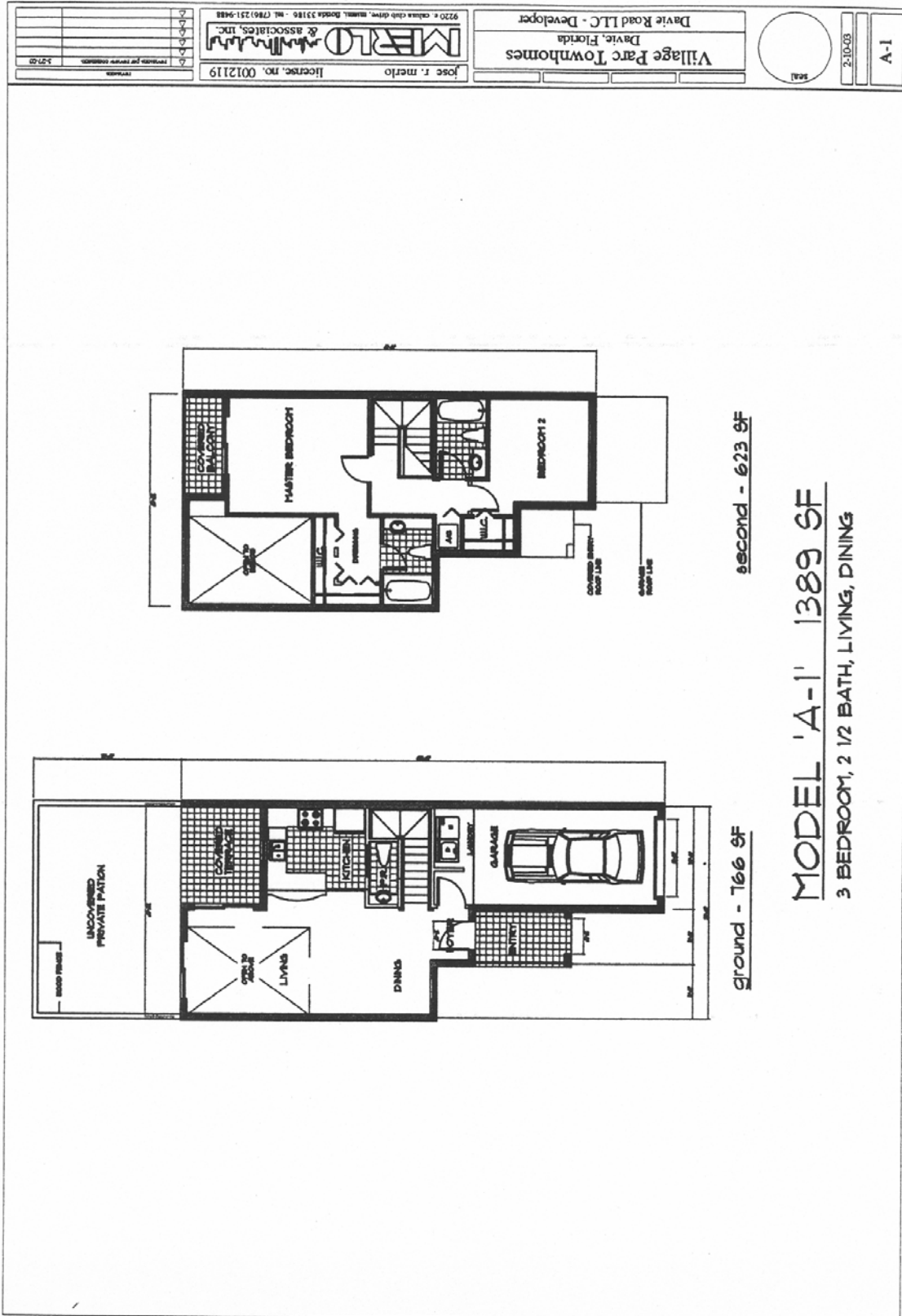
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OWNER	<p>James Beall LLC          10000 West Shiloh, Shiloh, MO 63078          David, Charles, John          Tel. (513) 455-8823 Fax. (513) 459-8825</p>	ARCHITECT	<p>W. &amp; Associates, Inc.          1000 N. Riden, R.A.          10000 West Shiloh          Miamis, Prichard, MO          Tel. (765) 211-4883 Fax. (313) 345-9124</p>	LANDSCAPE ARCHITECT	<p>500 West 12th Street (Industrial)          10000 West Shiloh          Tel. (513) 452-1750 Fax. (513) 452-4504</p>	MEP ENGINEER	<p>Mechanical &amp; Acoustical Design Group, Inc.          10000 West Shiloh          Tel. (513) 452-2239 Fax. (513) 452-1850</p>

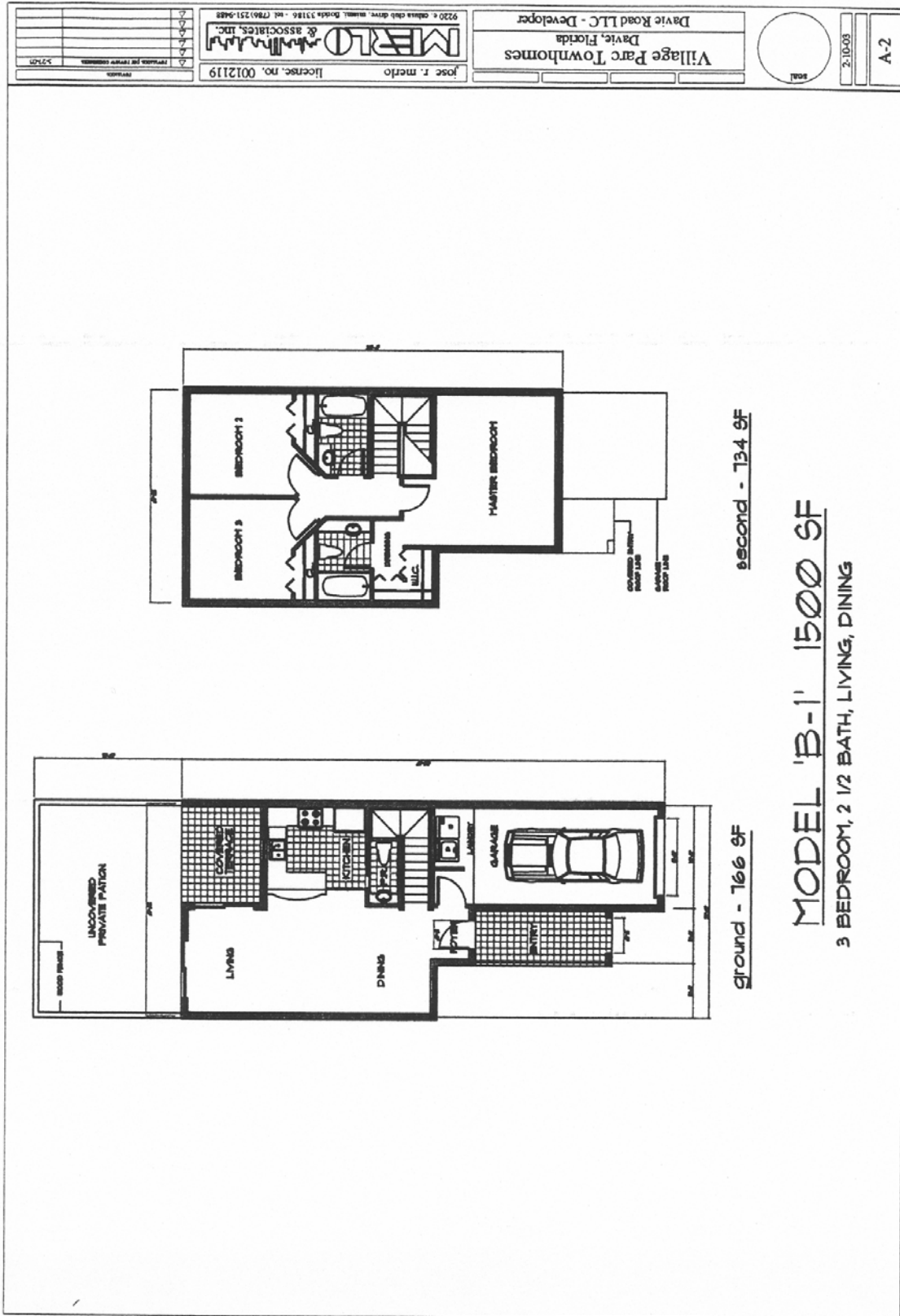










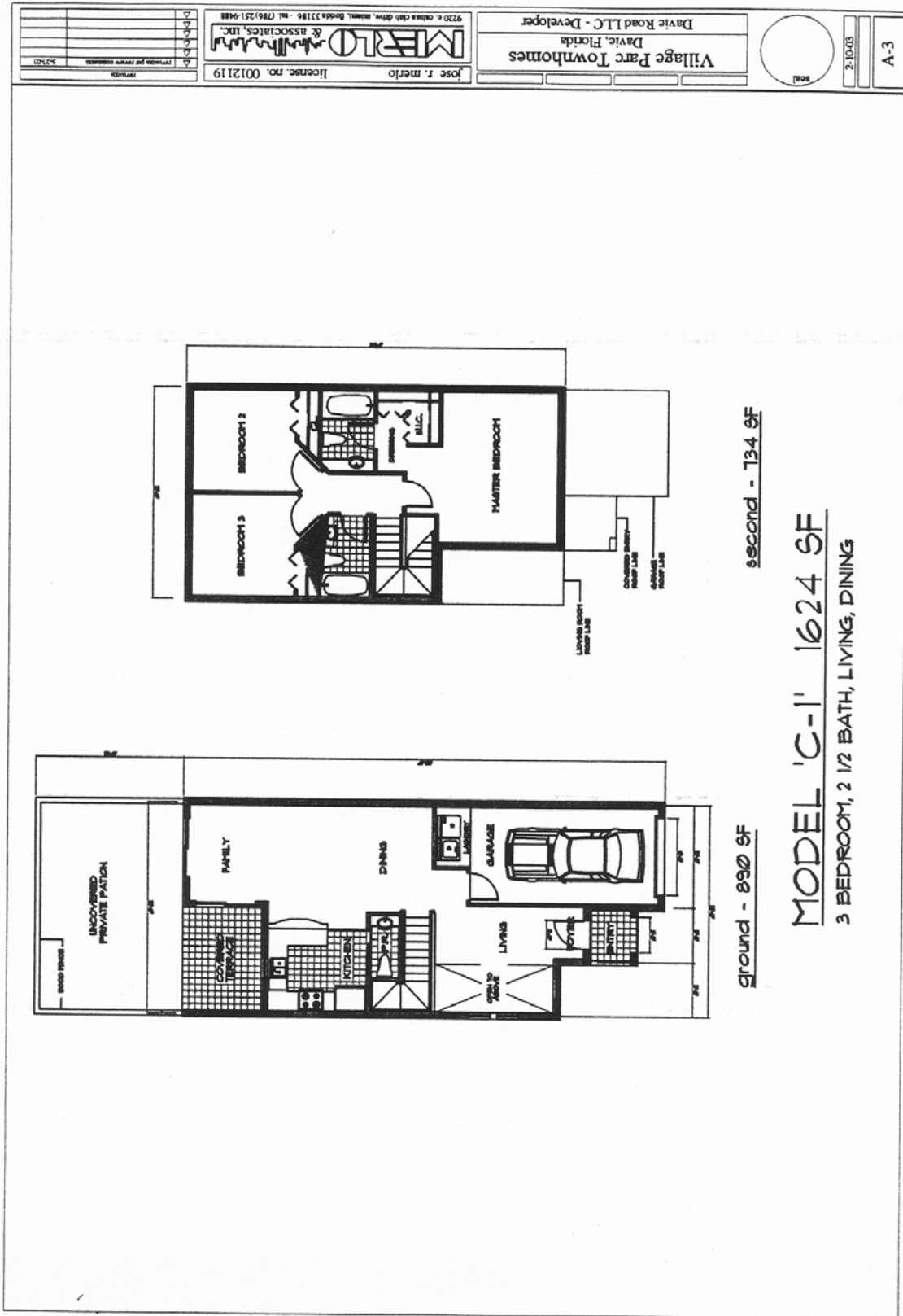


**MODEL 'B-1' 1500 SF**  
 3 BEDROOM, 2 1/2 BATH, LIVING, DINING

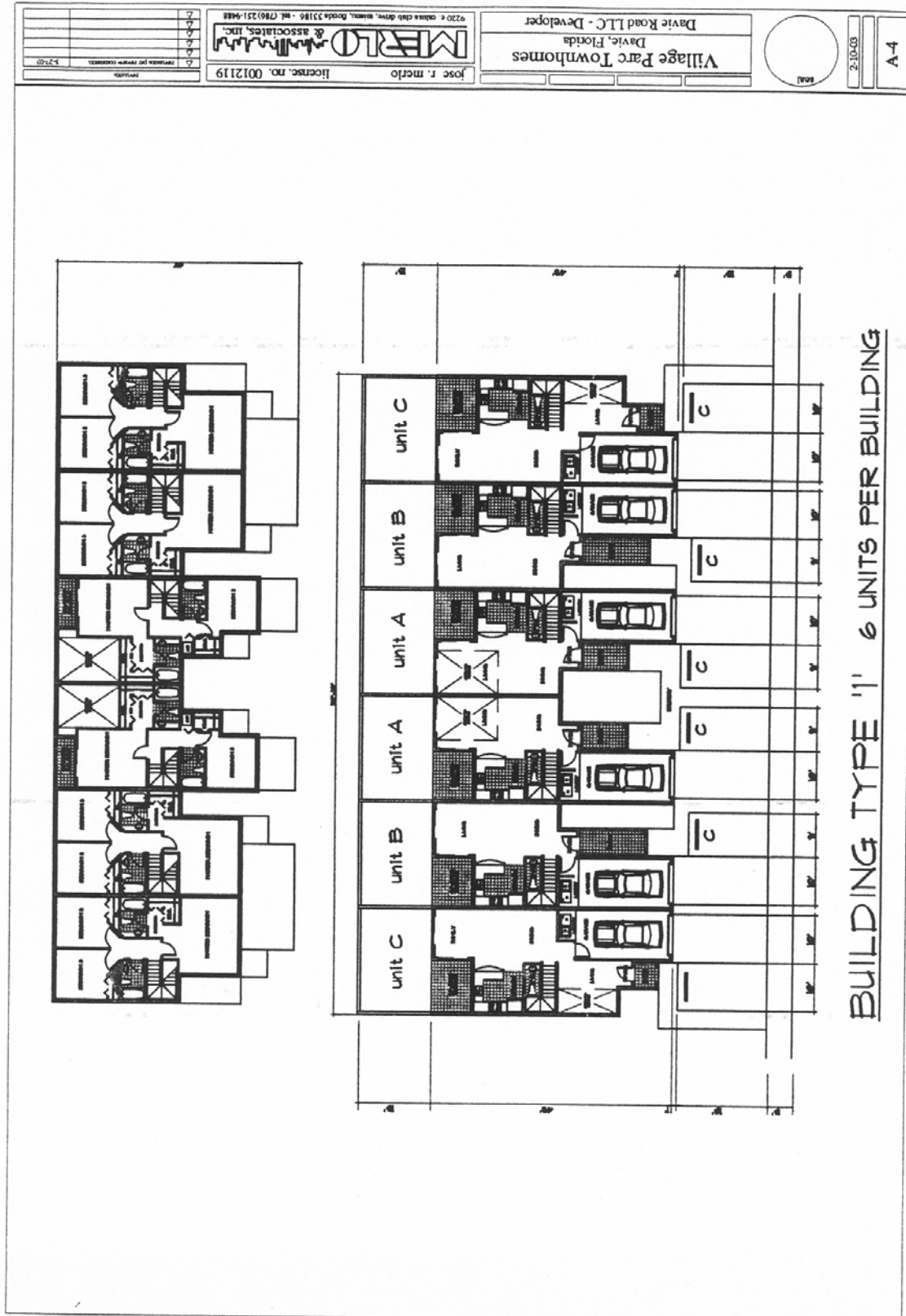
second - 134 SF

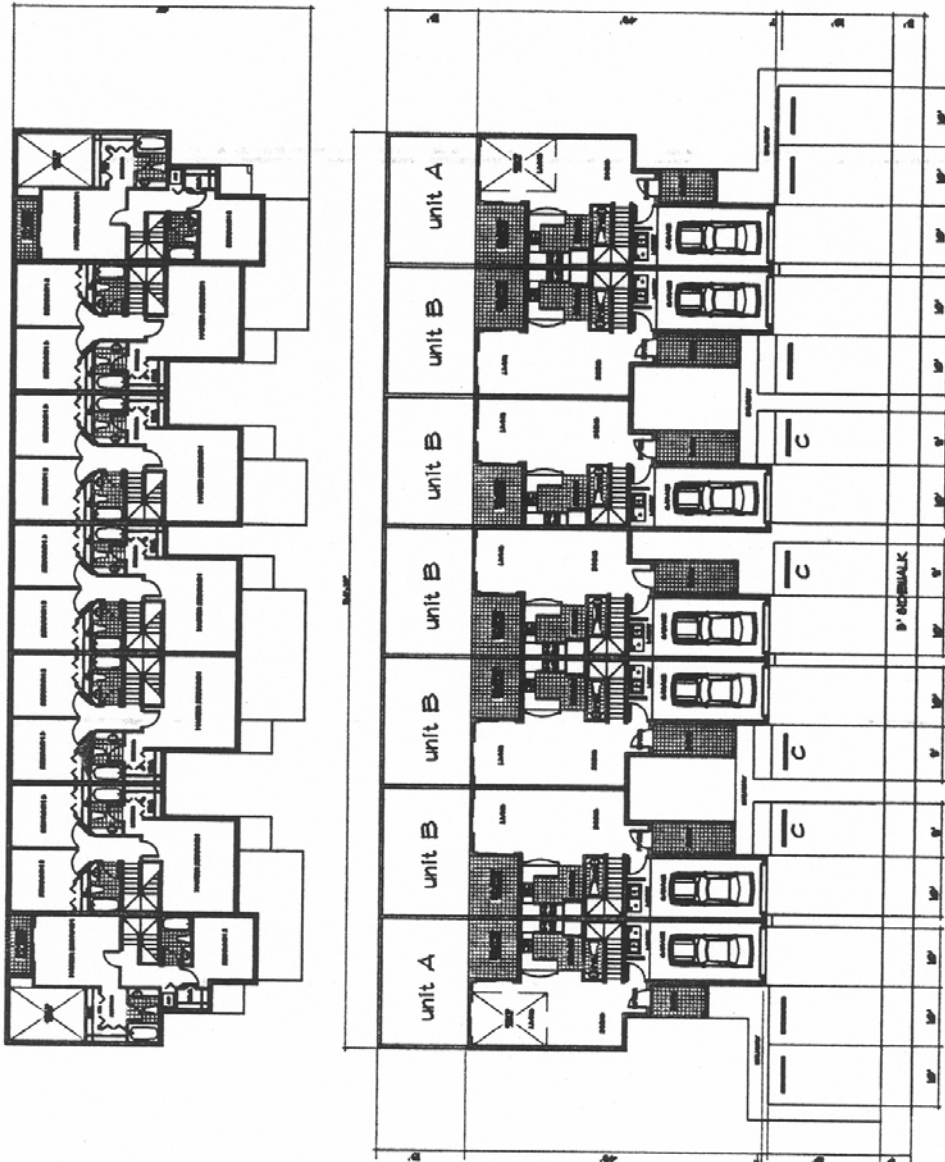
ground - 166 SF

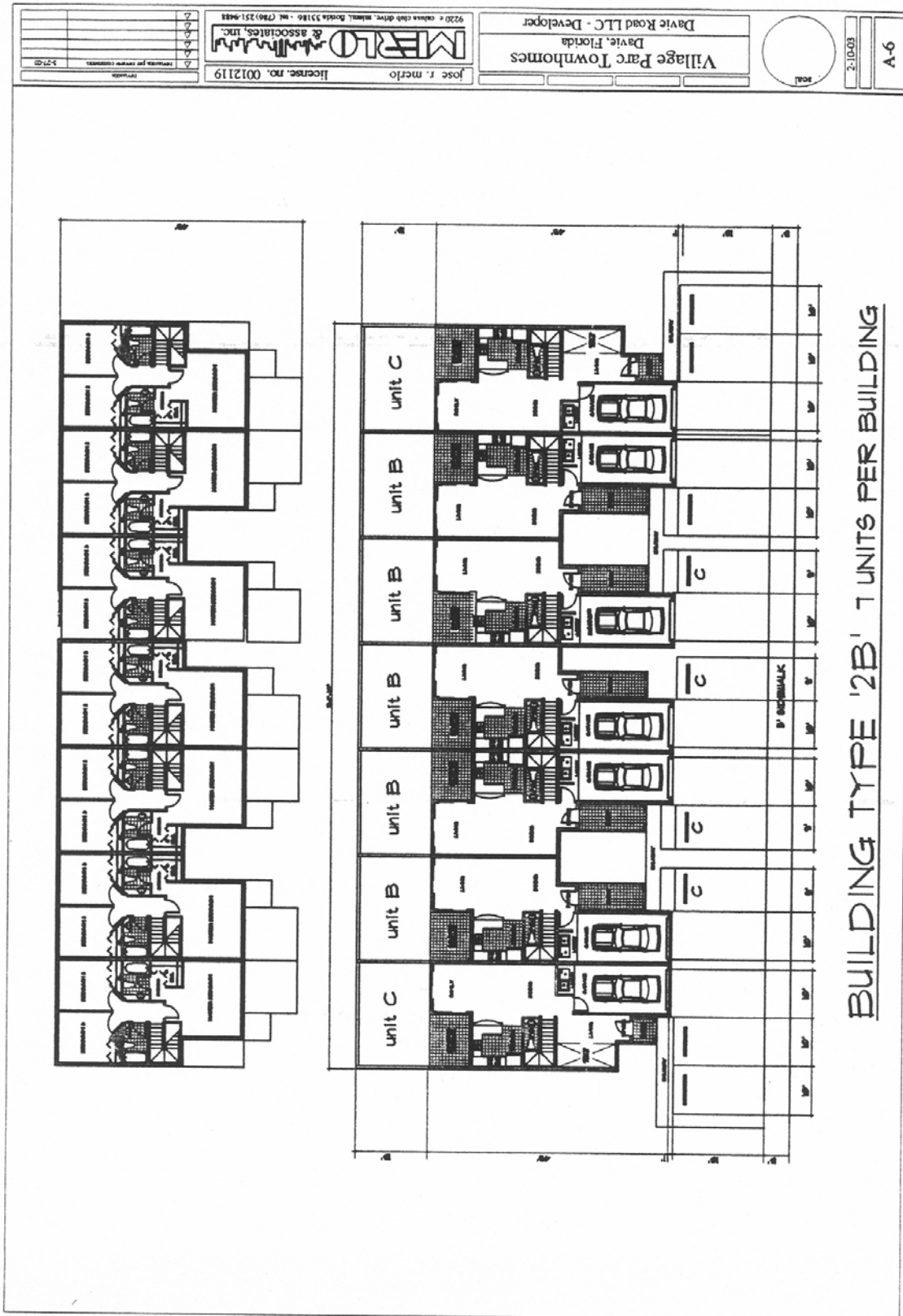
Village Parc Townhomes Davie, Florida Davie Road LLC - Developer		9220 E. CHURCH CLUB DRIVE, MIAMI, FLORIDA 33186 - TEL (786) 251-9487 <b>MERLO</b> & ASSOCIATES, INC.	
jose r. merlo license no. 0012119		2-10-03 A-2	
REVISIONS 1. 01/10/03 2. 01/10/03 3. 01/10/03		1. 01/10/03 2. 01/10/03 3. 01/10/03	



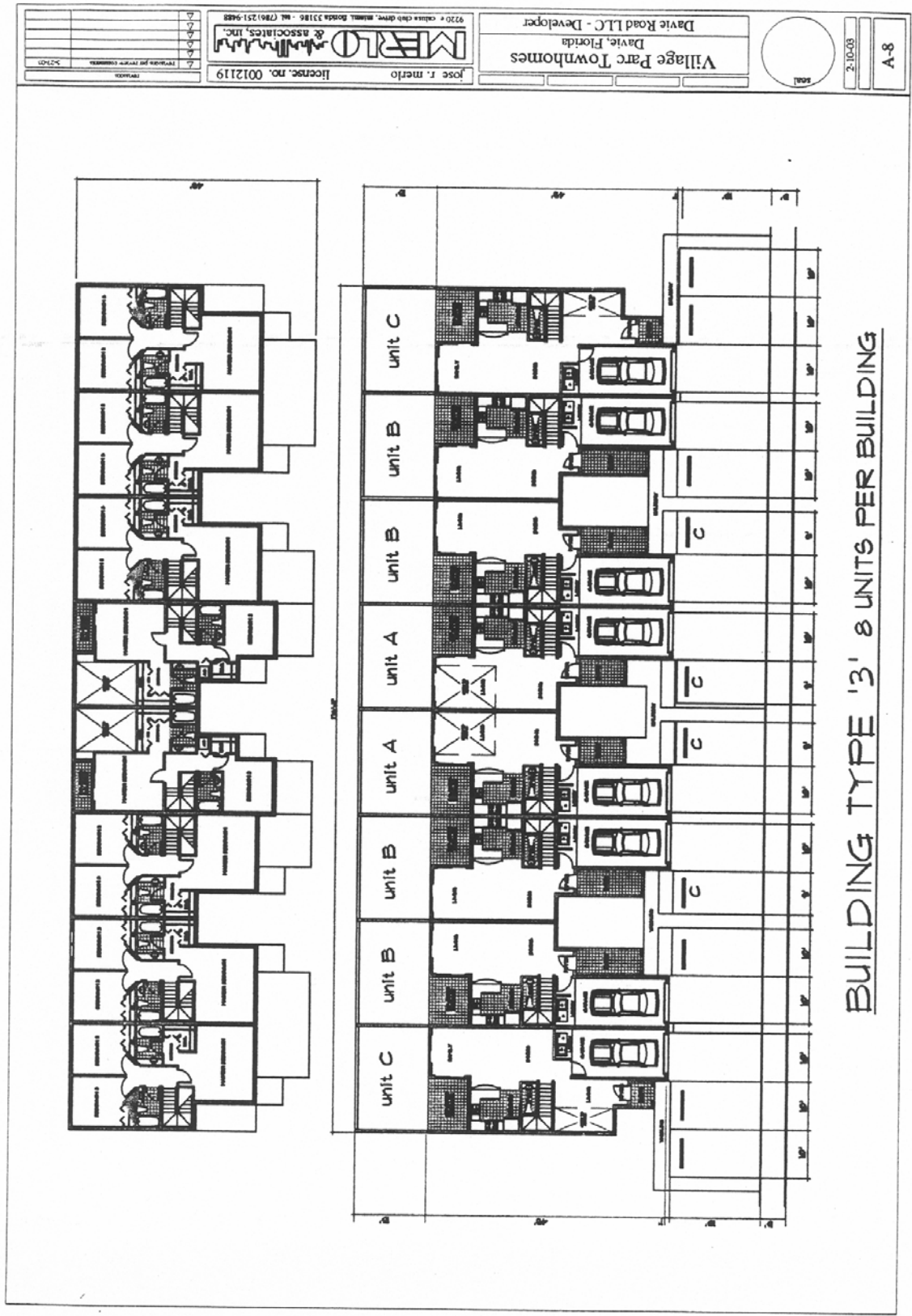




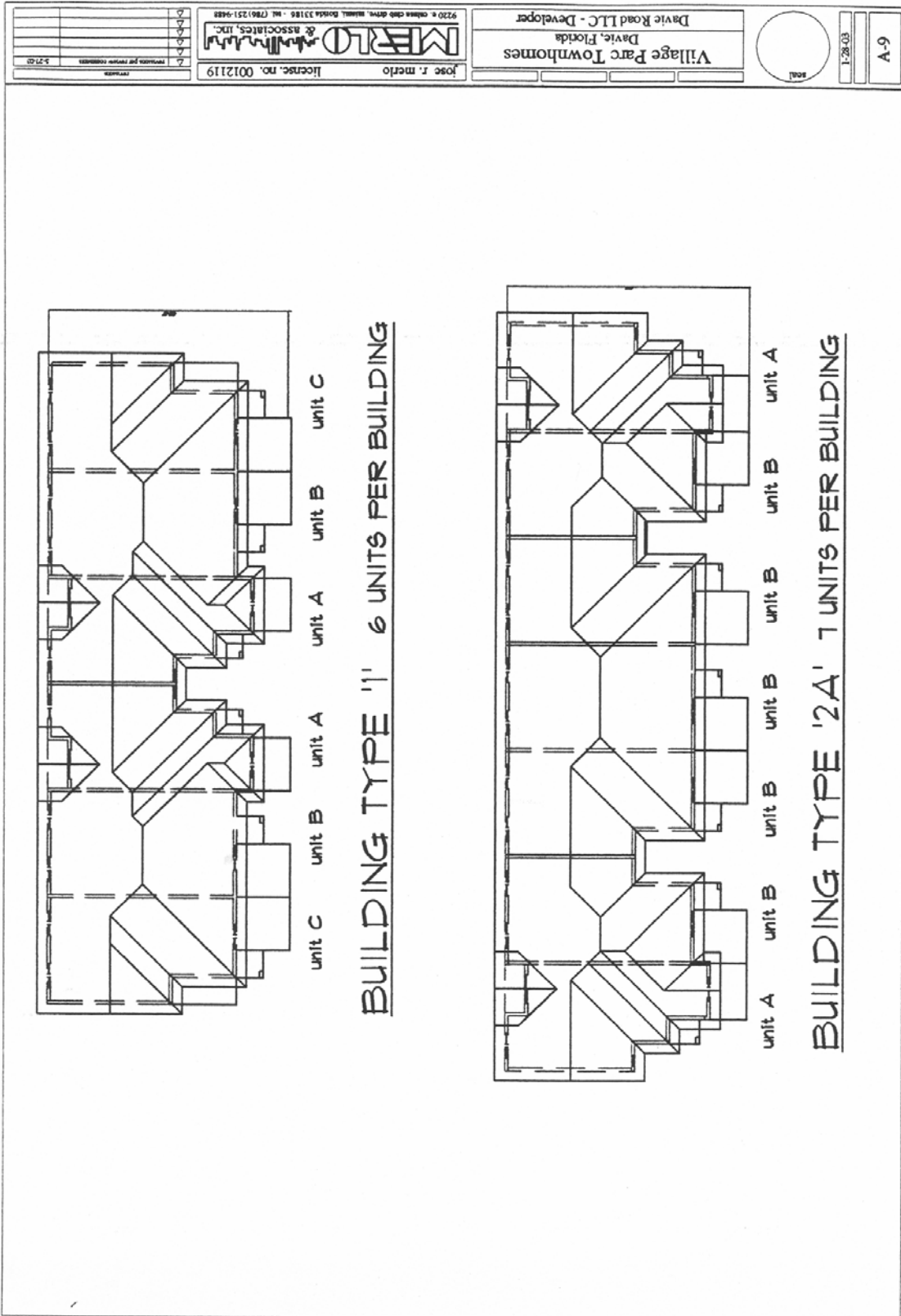


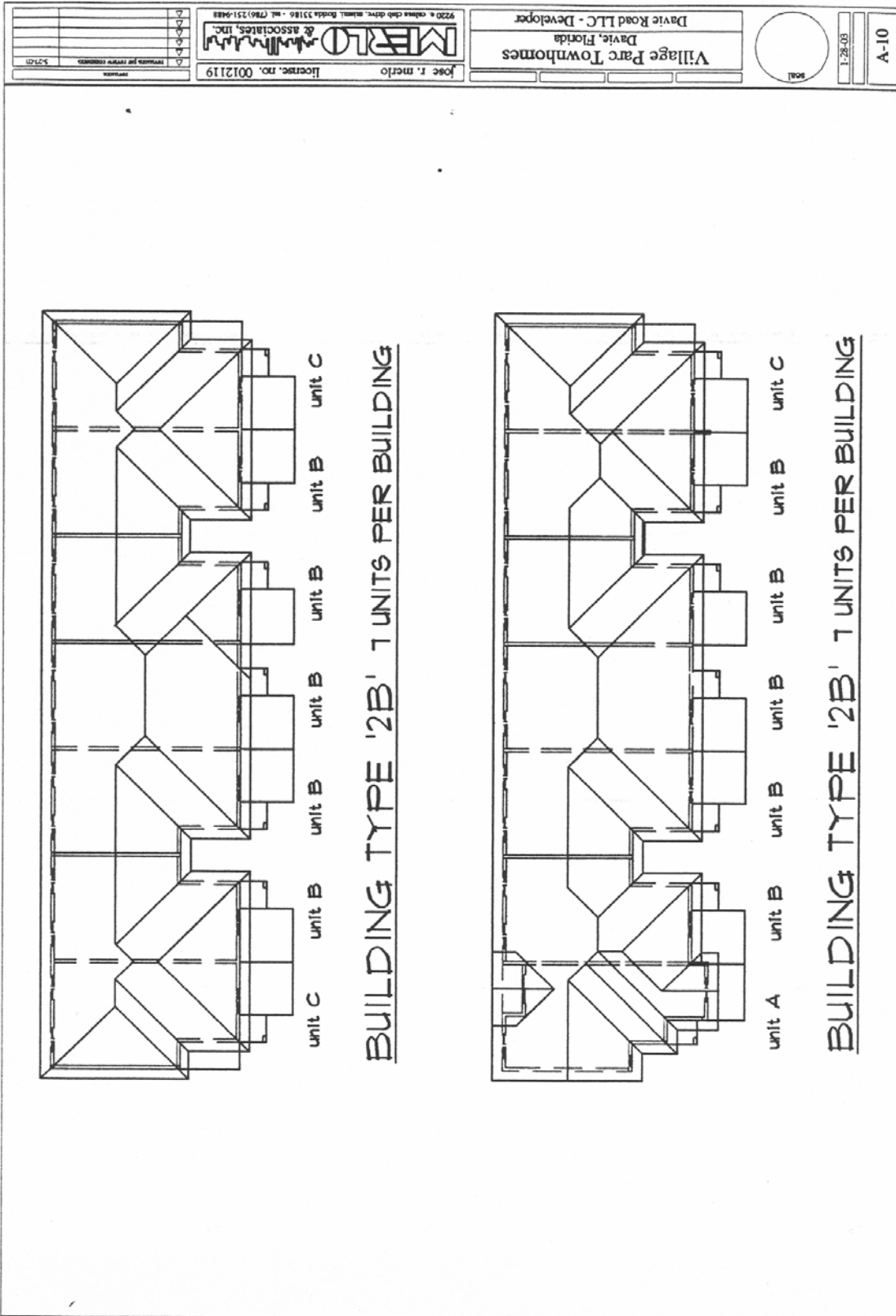






9720 • Collins Blvd Drive • Miami, Florida 33186 • Tel (781) 251-9482 <b>MERLO &amp; ASSOCIATES, INC.</b>		Jose R. Merlo License No. 0012119	
Village Parc Townhomes Davie, Florida Davie Road LLC - Developer		Scale 2-10-03 A-8	

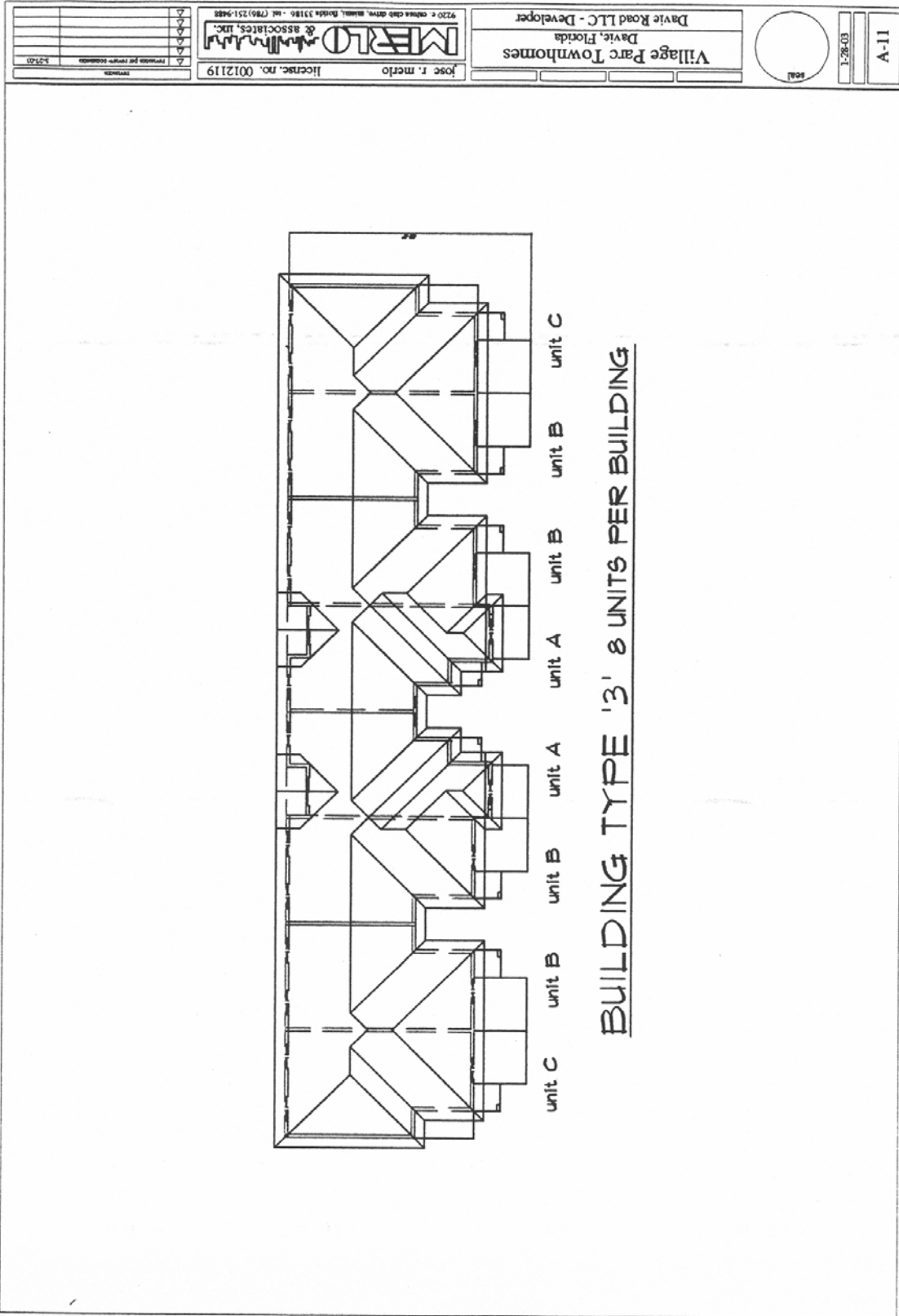




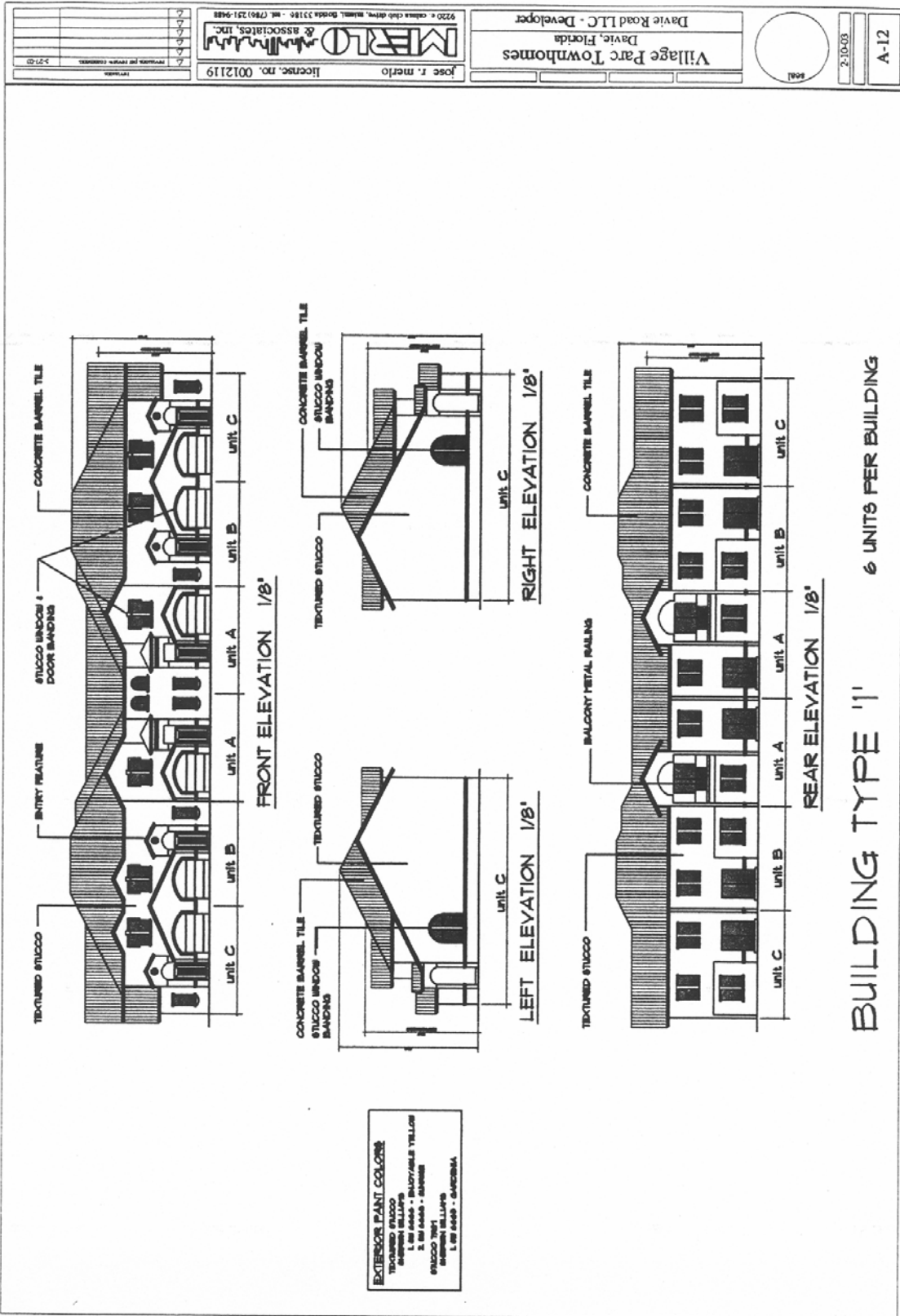
BUILDING TYPE '2B' 7 UNITS PER BUILDING

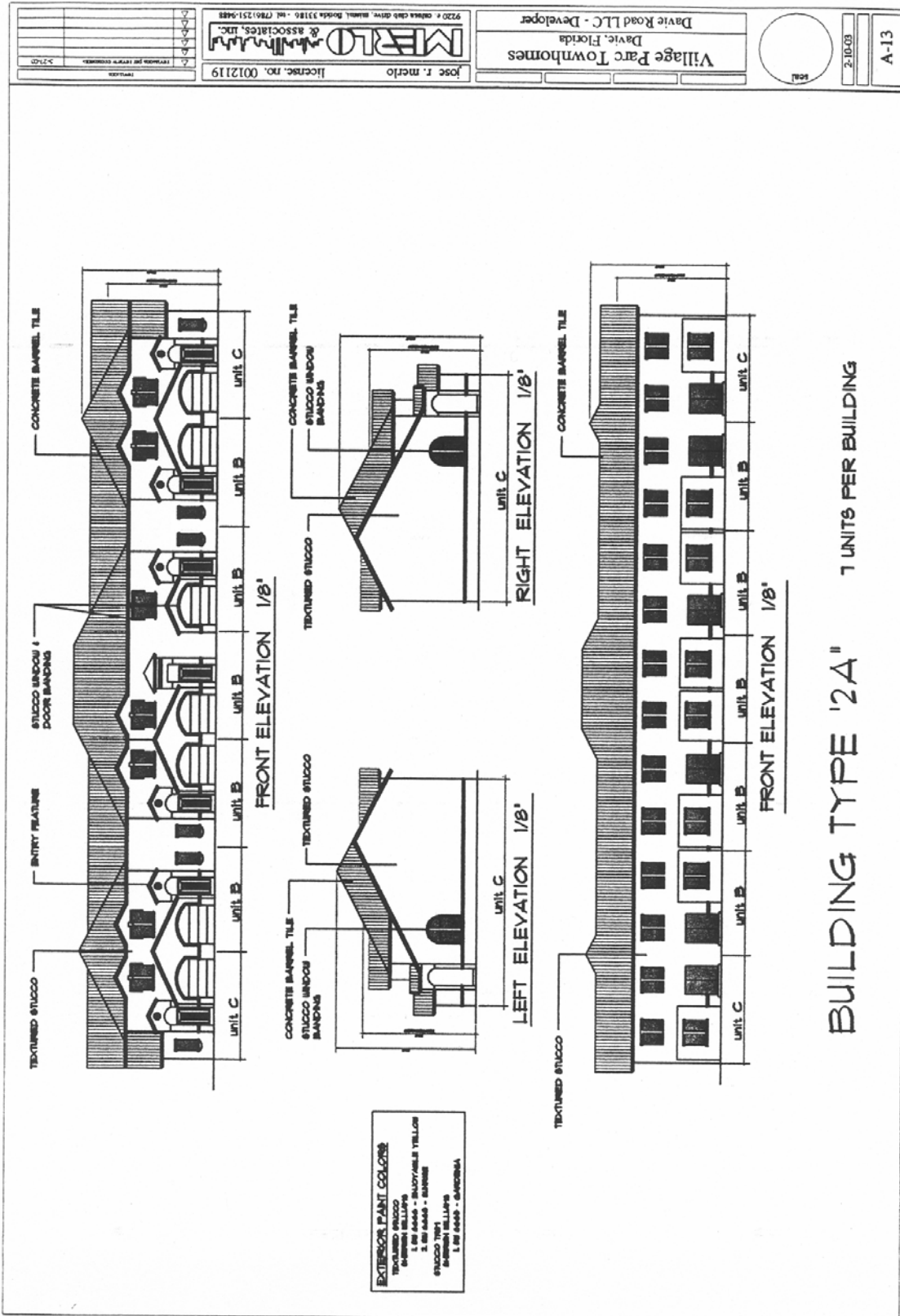
BUILDING TYPE '2B' 7 UNITS PER BUILDING



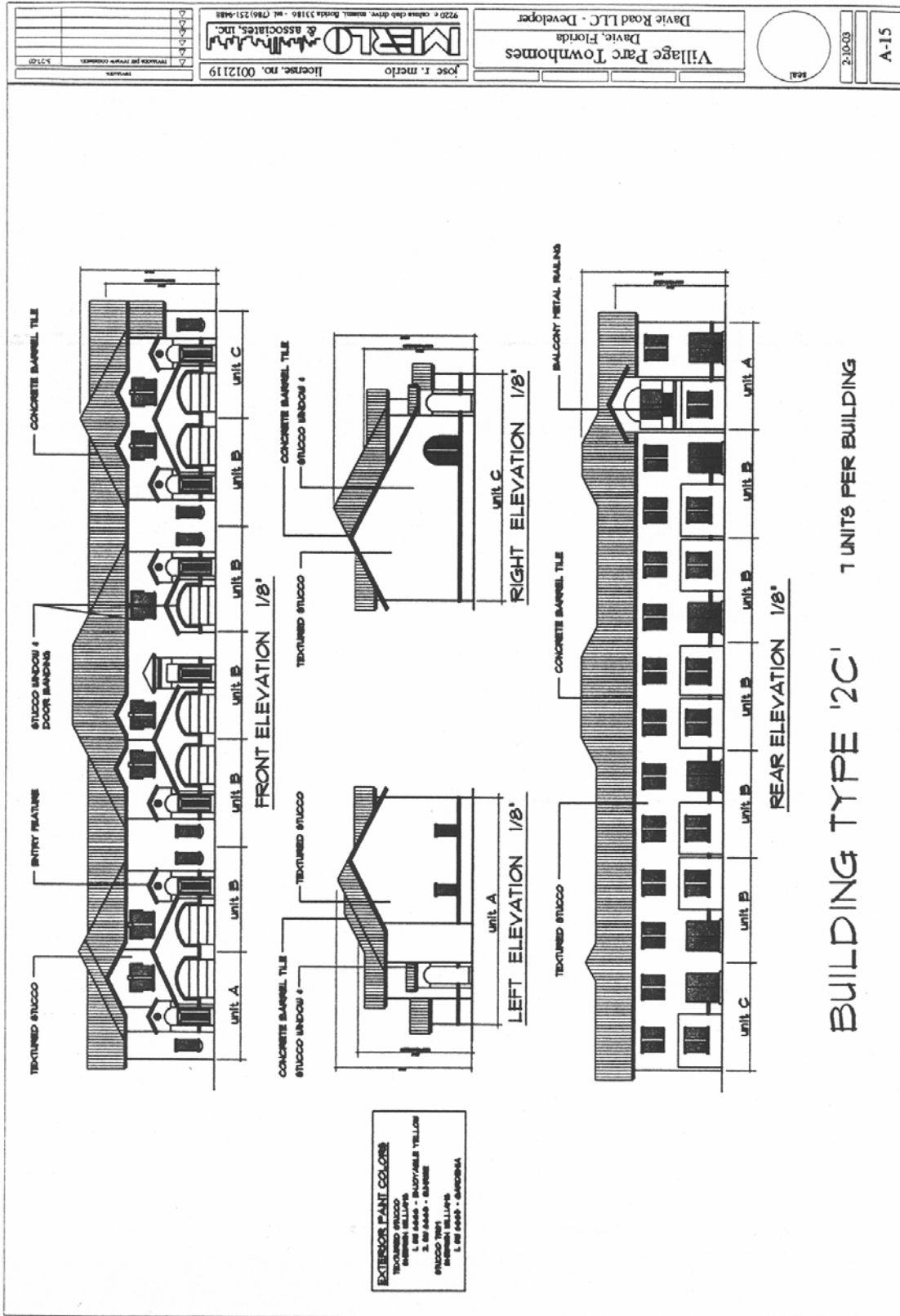


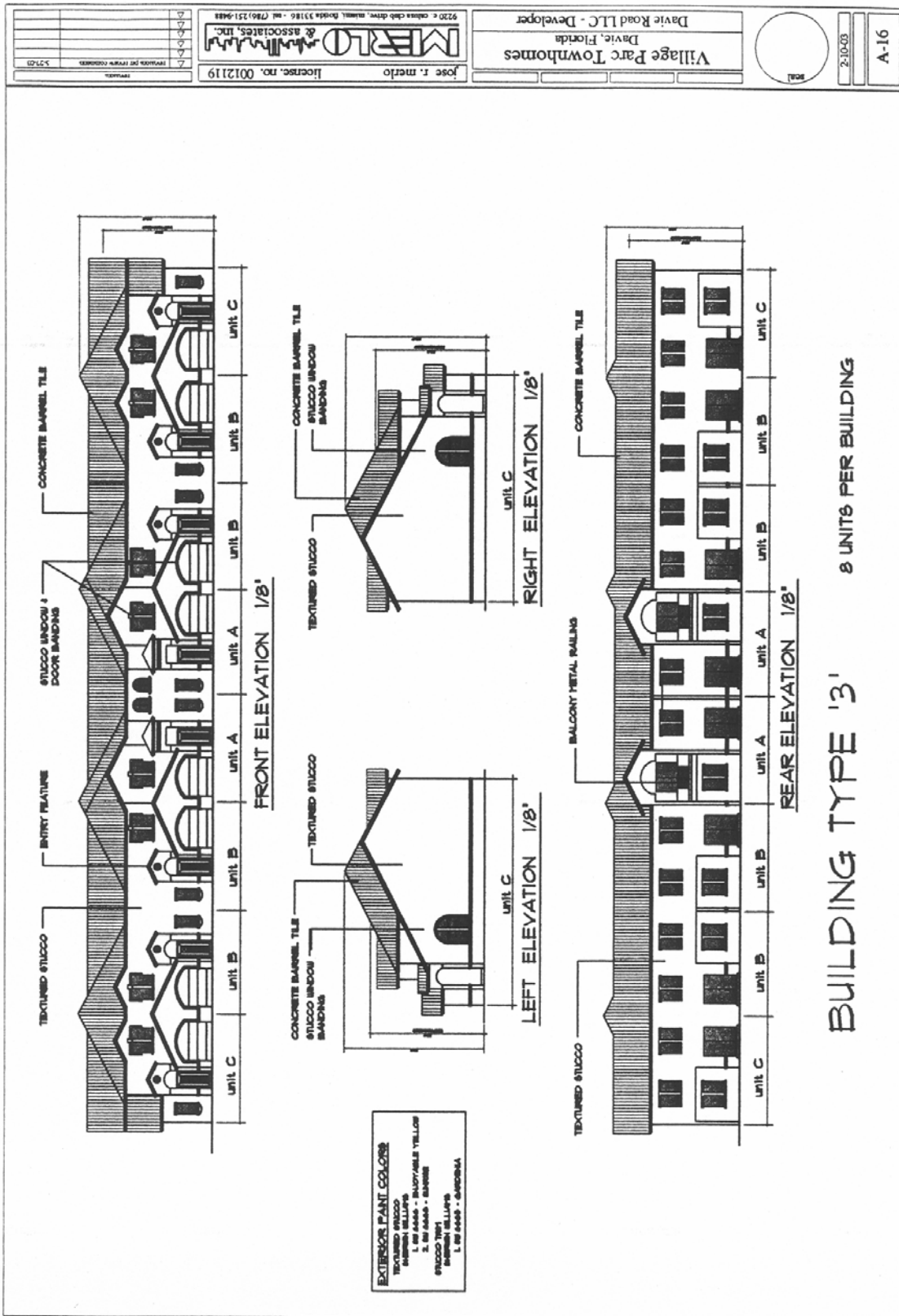


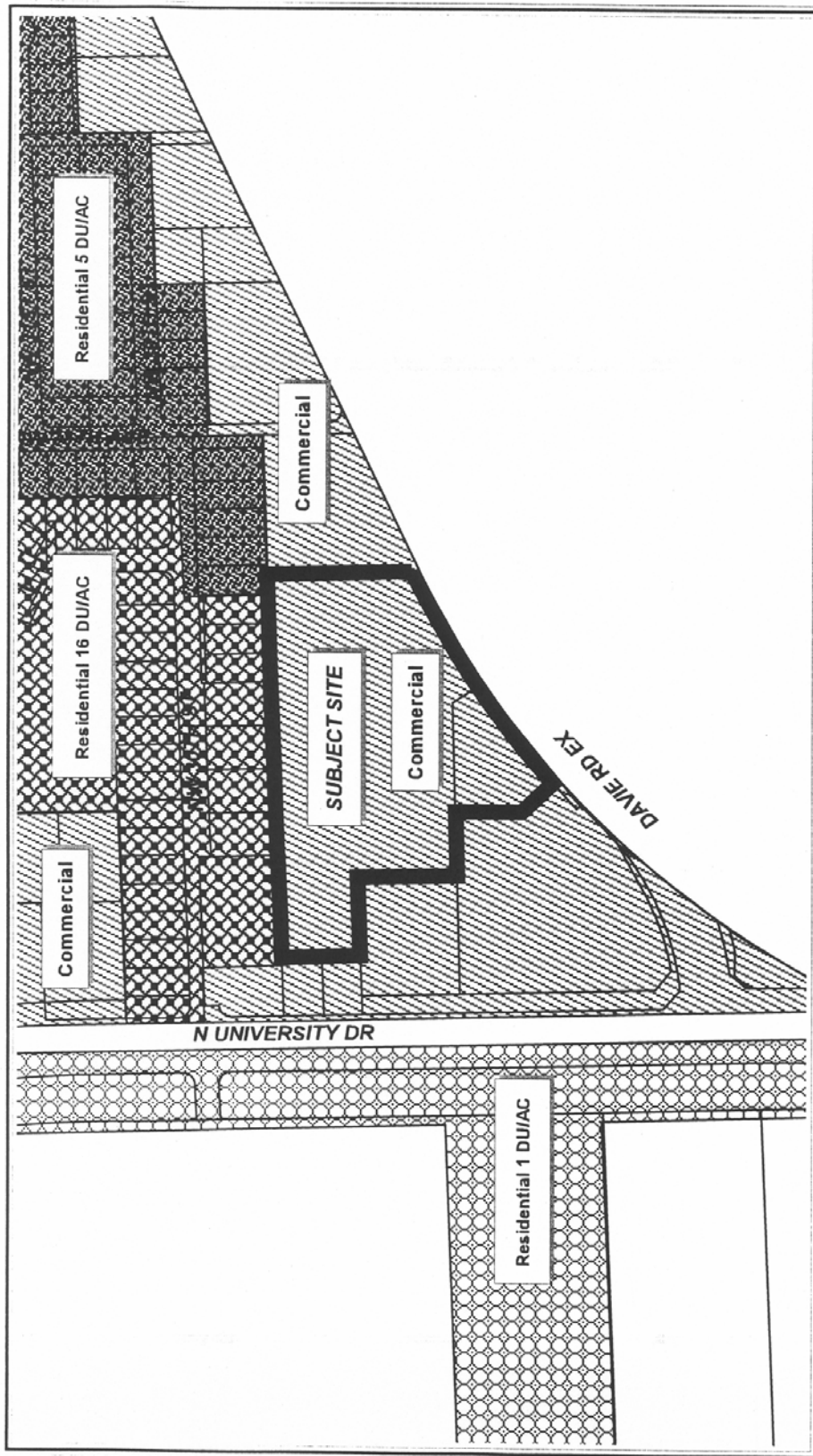






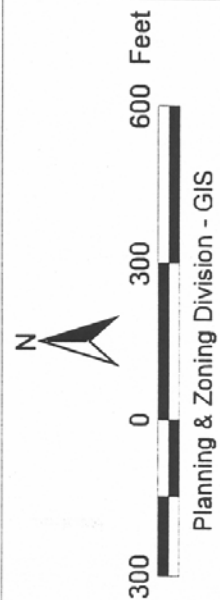






# **REZONING** **ZB 3-4-03** **Future Land Use Map**

Prepared By: ID  
 Date Prepared: 6/9/03







Date Flown:  
12/31/01



300 0 300 600 Feet

Planning & Zoning Division - GIS



# **REZONING** **ZB 3-4-03** **Zoning and Aerial Map**

Prepared By: ID  
Date Prepared: 6/9/03